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MICHIGAN LAWS

FOR THE PROTECTION

OF

ORCHARDS AND VINEYARDS

COMPILED BY

JUSTUS S. STEARNS

SECRETARY OF STATE

LANSING, MICHIGAN
ROBERT SMITH PRINTING CO., STATE PRINTERS AND BINDERS
1900.

Mich. Laws, statutes, etc.

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PROTECTION OF ORCHARDS AND VINEYARDS.

An Act to prevent the spread of the contagious diseases known as YELLOWS, BLACK KNOT, PEACH ROSETTE, LITTLE PEACH AND PEAR BLIGHT among peach, plum, cherry, prune, almond, apricot, nectarine and pear trees or the fruit thereof by providing measures for the eradication of the same, and to repeal act number one hundred twelve of the public acts of eighteen hundred ninety-three, approved May twenty-fifth, eighteen hundred ninety-three.

[Act 109 P. A. 1895.]

The People of the State of Michigan enact:

(5681.) SECTION 1. That it shall be unlawful for any person to keep any peach, almond, apricot, plum, prune, cherry, nectarine or pear tree infected with the contagious diseases known as yellows, black knot, peach rosette, little peach or pear blight, or to offer for sale or shipment, or to sell or to ship any of the fruit thereof, except the fruit of the plum, cherry and pear tree; that both tree and fruit so infected shall be subject to destruction as public nuisances, as hereinafter provided. No damages shall be awarded in any court in the State for entering upon the premises and destroying such diseased trees, or parts of trees, or fruit, if done in accordance with the provisions of this act. It shall be the duty of every person, as soon as he becomes aware of the existence of such disease in any tree, parts of trees or fruit owned by him, to forthwith destroy or cause said trees or fruit to be destroyed.

Unlawful to keep trees infected with contagious diseases.

Tree and fruit subject to destruction.

Duty of persons owning infected trees.

Title and section amended, 1899, Act 100, p. 143.
For former acts, see local Act 379 of 1875, p. 726; Act 32 of 1879, p. 27; Act 174 of 1881, p. 210; Act 158 of 1891, p. 199; Act 112 of 1893, p. 152.

(5682) SEC. 2. In any township or city in this state in which such contagious diseases exist or in which there is good reason to believe they exist or danger may be justly apprehended of their introduction, it shall be the duty of the township board, or city council as soon as such information becomes known to either such board or council, or any member thereof, to appoint forthwith three competent freeholders of said township or city, as commissioners, to be known as yellows commissioners, who shall hold office during the pleasure of said board, or city council, and such order of appointment and of revocation shall be entered at large upon the township or city records: Provided, That the commissioners now appointed and in office shall continue in said office until their successors are appointed and qualified: Provided, That in case commissioners have already been appointed to prevent the spreading of bush, vine

Appointment of commissioners.

Proviso as to former commissioners.

and fruit tree pests, such commissioners shall be ex officio commissioners under this act.

To file acceptance with clerk of township.

(5683) SEC. 3. It shall be the duty of said commissioners, within ten days after appointment as aforesaid, to file their acceptances of the same with the clerk of said township, or city, and said clerk shall be ex officio clerk of said board of commissioners and he shall keep a correct record of the proceedings of said board in a book to be provided for the purpose, and shall file and preserve all papers pertaining to the duties and actions of said commissioners, or either of them, which shall be a part of the records of said township or city.

Keep record of proceedings.

Duty of commissioners in regard to contagious diseases.

(5684) SEC. 4. It shall be the duty of the commissioners, or any one of them, upon, or without complaint, whenever it comes to their notice that either of the diseases known as yellows, black knot, peach rosette or pear blight exist, or are supposed to exist within the limits of their township, village or city, to proceed without delay to examine the tree or fruit supposed to be infected, and if the disease is found to exist, a distinguishing mark shall be placed upon the diseased trees, and the owners notified personally, or by a written notice left at his usual place of residence, or if the owner be a non-resident, by leaving the notice with the person in charge of the trees or fruit, or the person in whose possession said trees or fruit may be. The notice shall contain a simple statement of the facts as found to exist, with an order to effectually uproot and destroy, by fire, or as the commissioner shall order, the trees so marked or designated, or such parts thereof, within five days, Sundays excepted, from the date of the service of the notice, and in case of fruit so infected, such notice shall require the person in whose possession or control it is found to immediately destroy the same, or cause it to be done, or the commissioner may destroy the same. Said notice and order to be signed by one or more of the commissioners.

Notice, what to state.

In case person interested to serve written notice on commissioners that trees are not diseased.

(5685) SEC. 5. In case any person who is interested in any tree or trees so ordered to be destroyed shall feel aggrieved by such order and shall believe that such trees are not so diseased, he may serve a written notice upon all of the commissioners in the township in which such trees are situated, which notice shall specify the part of such order to which objection is made and the particular tree or trees included in such order which it is claimed are not so diseased and shall request an examination of such tree or trees by all of said commissioners, which notice shall be served personally upon each of said commissioners within the five days given for the destruction of said trees and it shall thereupon be the duty of all of said commissioners who have not already done so to personally examine such tree or trees as soon as practicable, and within said five days, and if a majority of all the commissioners shall agree that such tree or trees are so diseased, they shall order the same to be destroyed forthwith by the owner or custodian thereof, but if a majority shall decide that such tree or trees, or any of them,

May request commissioners to examine trees.

are not so diseased, they shall revoke the order of the commissioner to destroy the same so far as it relates to the trees so found to be free from disease, but this section shall not apply to fruit ordered to be destroyed. When commissioners may revoke order for destruction of trees.

(5686) SEC. 6. Whenever any person shall refuse or neglect to comply with the order to remove and destroy the trees or parts of trees so designated and marked by the commissioner as aforesaid, it shall become the duty of the commissioner to cause said trees or parts of trees to be removed and destroyed forthwith, employing all necessary aid for that purpose. The expenses for such removal and destruction of trees or parts of trees to be a charge against the township or city, and for the purpose of such removal [and] or destruction, the said commissioners, their agents and workmen, shall have the right and power to enter upon any and all premises within their township or city. Commissioner to remove trees in certain cases. Expense, how defrayed.

(5687) SEC. 7. If any owner neglects to uproot and destroy or cause to be removed and destroyed as aforesaid, such diseased trees, or parts of trees or fruit, after such examination and notification, and within the time hereinbefore specified, or any other person who shall sell or offer for sale such diseased fruit, such person shall be deemed guilty of a misdemeanor, and punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding three months, or both, in the discretion of the court, and any justice of the peace of the township or city where such trees may be, or where such nursery stock or fruit is sold, shipped, disposed of, or delivered as aforesaid, shall have jurisdiction thereof. The words "parts of trees," wherever used in this act, shall refer to black knot and pear blight only, and not to trees affected with yellows. Refusal of owner to remove trees a misdemeanor. Penalty.

(5688) SEC. 8. The commissioners shall be allowed for services under this act, two dollars for each full day, and one dollar for each half day and their other charges and disbursements hereunder, to be audited as well as any other charges and disbursements under this act, by the township board or city council, all of which costs, charges, expenses and disbursements, shall be certified by the commissioners to the supervisor or city council on the first day of October of each year. Said certificate shall describe the lands on which such diseased trees stood, and the expense incurred in removing the same. The amount so certified shall be levied by the supervisor upon the premises described in said certificate, the owners or occupants of which having refused to remove and destroy said diseased trees as required in this act. The amounts so levied shall be collected in the same manner as delinquent highway taxes are collected, and shall be paid into, and belong to the general fund of the township or city as the case may be. Compensation of commissioners. Charges, how audited. Supervisors to levy on refusal to remove or destroy. Collection of.

Am. 1897, Act 110. Sec. 9 repeals Act 112 of 1893.

An Act to prevent the spreading of BUSH, VINE AND FRUIT TREE PESTS, such as canker worms and other insects, and fungus and contagious diseases, and to provide for their extirpation.

[Act 108 P. A. 1895.]

The People of the State of Michigan enact:

Duty of owner, etc., to spray fruit trees, etc.

(5689) SECTION 1. That it shall be the duty of every owner, possessor, or occupier of an orchard, nursery or vineyard, or of land where fruit trees or vines are grown within this state, to spray with a poisonous solution or disinfectant, and of sufficient strength to destroy such injurious insects or contagious disease, all fruit trees or vines grown on such lands which may be infected with any injurious insect or worms, or infected with any contagious disease known to be injurious to fruit or fruit trees or vines: Provided, That if such trees and vines are infested with the San Jose or other scale insects, such trees or vines shall be either effectually sprayed or destroyed: Proviled also, That no such spraying shall be done while said fruit trees or vines are in blossom, except in case of canker worm.

Proviso.

Proviso.

Am. 1897, Act 2, p. 5.

Duty of township board to appoint commissioners, when.

(5690) SEC. 2. In any township in this state where such injurious insects or contagious diseases are known to exist, or in which there is good reason to believe they exist, or danger may be justly apprehended of their introduction, it shall be the duty of the township board, upon the petition of at least ten freeholders of such township, to appoint forthwith three competent freeholders of said township as commissioners, who shall hold office during the pleasure of the board, and such order of appointment and of revocation shall be entered at large upon the township record: Provided, That in townships having a board of yellows commissioners, such commissioners shall be ex officio commissioners under this act.

Proviso.

Am. Id.

Duty of commissioners.

(5691) SEC. 3. It shall be the duty of said commissioners within ten days after appointment as aforesaid, to file their acceptance of the same with the clerk of said township, and said clerk shall be ex officio clerk of said board of commissioners, and he shall keep a correct record of the proceedings of said board in a book to be provided for that purpose, and shall file and preserve all papers pertaining to the duties and actions of said commissioners, or either of them, which shall be a part of the records of said townships.

Am. Id.

Commissioners to examine without complaint.

(5692) SEC. 4. It shall be the duty of said commissioners or any one of them, upon or without complaint, whenever it comes to their notice, that any orchard, fruit trees or vines are

infested with canker worm or other injurious insects or contagious disease, within their townships, to proceed without delay to examine such orchards or vineyards, supposed to be infested, and if such injurious insects or contagious diseases are found to exist, the owner shall be notified personally, or by a written notice left at his usual place of residence, or if the owner be a non-resident, by leaving the notice with the person in charge of the trees or vines, or the occupant of the lands upon which such trees or vines shall be growing. The notice shall contain a simple statement of the facts as found to exist with an order to effectually destroy such injurious insects or worms or contagious disease by spraying such trees or vines with a poisonous solution, or in case of contagious disease to effectually disinfect said diseased trees or vines, or in case of San Jose or other scale insect to effectually spray or destroy such infested trees, within such time from the date of the service of the notice as such commissioners shall designate, said notice and order to be signed by the full board of commissioners.

Notice to owner, etc.

Am. Id.

(5693) SEC. 5. Whenever any person shall refuse or neglect to comply with the order to spray or disinfect the orchards or vineyards designated by the commissioners, as aforesaid, or in case of San Jose or other scale insects to effectually spray or destroy such infested trees, it shall become the duty of the commissioners to cause said trees or vines to be effectually sprayed with a poisonous solution or disinfected as occasion should require, or in case of San Jose or other scale insect, to effectually spray or destroy such infested trees forthwith, employing all necessary aid for that purpose, and the expenses for the same shall be a charge against the township, and for said spraying, disinfecting or destroying, the said commissioners, their agents or workmen, shall have the right and power to enter upon any and all premises within their township.

Owner neglecting to spray.

Am. Id.

(5694) SEC. 6. If any owner, township officer or commissioner neglects or refuses to comply with the requirements of this law, as set forth in the preceding sections, and within the time therein specified, such person shall be deemed guilty of a misdemeanor, and punished by fine, not exceeding fifty dollars, or imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment in the discretion of the court, and any justice of the peace of the township where such trees or vines may be growing shall have jurisdiction thereof.

Penalty for neglect.

Am. Id.

(5695) SEC. 7. The several commissioners shall be allowed for service under this act, two dollars for each full day, and one dollar for each half day, and their other charges and dis-

Compensation of commissioners.

bursements hereunder to be audited, as well as any other charges and disbursements under this act by the township board, all of which costs, charges, expense and disbursements shall be recovered by the township from the owner of said infected or infested orchards or vineyards, or from the owner of the premises on which said trees or vines may be growing, in an action of assumpsit. The provisions of this act shall not apply to the contagious disease known as yellows.

Am. Id.

An Act to prevent the introduction or spread of SAN JOSE SCALE OR OTHER INJURIOUS INSECTS OR INFECTIOUS DISEASES of trees, vines, shrubs or plants grown in this State or imported from other states, provinces or countries.

[Act 137, P. A. 1897.]

The People of the State of Michigan enact:

Board of agriculture to appoint inspectors of nurseries and orchards.

Term of office, duties.

(5696) SECTION 1. That it shall be the duty of the state board of agriculture, immediately upon the taking effect of this act, to appoint some competent person who shall be known as state inspector of nurseries and orchards, who shall hold office during the pleasure of said board, whose duty shall be to inspect any and all nurseries in the state of Michigan, as to whether they are infected by San Jose scale or other injurious or destructive insects or infected with infectious on contagious diseases, and if upon such inspection he find no such dangerous insects or diseases, he shall upon payment of per diem fee hereinafter provided, give to the owner of such nurseries a certificate to that effect, and shall file a duplicate certificate with the state board of agriculture; and in case he shall find present in any such nursery any of said dangerous insects or diseases, he shall notify the owner thereof in writing, and shall direct him within five days to use such means as will exterminate such dangerous diseases or insects, and the owner of such nursery shall not ship nor deliver any such trees, vines, shrubs or plants affected by such dangerous insects or diseases until he shall have secured from said inspector a certificate as aforesaid.

Owners of nurseries, etc., to destroy insects or diseases in trees.

Not to ship nor deliver trees infected.

(5697) SEC. 2. The owner of such nursery, trees, vines, shrubs or plants shall, within the time specified in such notice, take such steps for the destruction of such insects or diseases as will exterminate the same, and he shall not ship nor deliver any such trees, vines, shrubs nor plants affected with such dangerous diseases or insects under the penalty of a fine of one dollar for every tree, vine, plant or shrub so affected, when shipped or delivered from such nursery, which fine shall be collected by suit by the prosecuting attorney of the county in which said nursery is located.

(5698) SEC. 3. Whenever it shall happen that the state inspector of nurseries and orchards shall give the notice heretofore required to the owner of a nursery, for the destruction of the insects or diseases mentioned, and said owner shall fail or neglect to take the measures necessary for the destruction thereof, within the time mentioned in the notice given him, it shall be the duty of the state inspector of nurseries and orchards to have the proper remedies applied to such nursery for the destruction of such diseases or insects, and shall employ all necessary assistance and may enter the premises of said owner of such nursery for the purpose of treating and exterminating such insects or diseases and the said owner of such nursery shall be liable for the costs of such proceeding, for the services of the inspector at a rate per diem to be fixed by the state board of agriculture, not to exceed three dollars per day, and for such number of days as said board shall determine, which said charge must be paid before delivery of the certificate in section one of this act.

In case owner refuse to destroy infected trees, duty of inspector.

May employ assistance.

Owner liable for costs.

Amount.

(5699) SEC. 4. Whenever any trees, shrubs, plants or vines are shipped into this state from another state, country or province, every package thereof shall be plainly labeled on the outside with the name of the consignor, the name of the consignee, the contents, and a certificate showing that the contents have been inspected by a state or government officer, and that the trees, vines, shrubs or plants therein contained appear free from all injurious insects or diseases. Whenever any trees, shrubs, vines or plants are shipped into this state without such certificate plainly fixed on the outside of the package, box or car containing the same, the fact must be reported within twenty-four hours to the state board of agriculture by the railway, express or steamboat company, or other person or persons carrying the same; and any agent of any railway, steamboat or express company, or any other person or persons who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than twenty-five nor more than one hundred dollars, or imprisonment in the county jail not less than five nor more than thirty days, or may be so fined and imprisoned in the discretion of the court, and any such fine shall be paid to the state board of agriculture.

Name of consignor to be on package when shipped from out of state.

Government inspector to inspect shipments.

Violation a misdemeanor.

Penalty.

(5700) SEC. 5. Any person or persons growing or offering for sale in this state any trees, vines, shrubs or plants, commonly known as nursery stock, shall, on or before the first day of August in each year, apply to the state board of agriculture, for inspection of said stock under the provisions of this act and a license for its sale, and shall deposit with said board a fee of five dollars as a license fee for himself as principal. Such license shall be good for one year and shall not be transferable, and each of such persons, principals, shall execute to the state board of agriculture a bond, in the sum of one thousand dollars, with good and sufficient sureties satisfactory to said board,

When owners of nurseries to apply for inspection of stock and license to sell.

License fee.

License to be good for one year.

Bond.

conditioned that he will comply with all the provisions of this act, and that upon demand he will file with the state board of agriculture, a list of the persons to whom he has sold or delivered any such nursery stock giving the species together with the postoffice address of each purchaser, which list shall be held in strict confidence by said state board of agriculture, and not be subject to inspection by the public. Failure on the part of any nurseryman, grower, agent or dealer to comply with the provisions of this section shall render him or them liable to the penalties of a fine of not more than one hundred nor less than twenty-five dollars, or imprisonment in the county jail for not more than ninety nor less than thirty days or both such fine and imprisonment in the discretion of the court for each and every such sale. Such information shall be preserved and be for the sole use of the nursery and orchard inspector and his deputies: Provided, That the provisions of the preceding sections shall not apply to persons engaged in fruit growing, who are not nurserymen, who desire to sell or exchange surplus trees or plants of their own growing.

To file list of purchasers with board of agriculture.

Penalty for not filing list.

Proviso as to who may sell or exchange trees, etc.

Foreign firms or corporations to obtain license from board to sell in this state.

(5701) SEC. 6. No person, firm or corporation resident of another state, province or country shall engage or continue in the business of importing any trees, plants, shrubs or vines, commonly known as nursery stock, into this state or of selling such importations within the state, or of selling such articles within the state, for subsequent importation into it, without first having obtained from the state board of agriculture a license to do business in this state as provided in section five of this act, and shall have filed with the state board of agriculture the bond therein required, together with a certificate of inspection by a state or government inspector or that of some person designated by the Michigan state board of agriculture for such purpose.

To file bond and certificate with board.

Upon receipt of fee board to issue license.

(5702) SEC. 7. The state board of agriculture shall, upon receipt of the fee referred to in this act, together with the required bond and a satisfactory certificate of inspection, issue licenses to the applicant according to the provisions of this act.

In case of dispute between committee and owner as to infected trees, inspector to investigate.

(5703) SEC. 8. Whenever the commissioners under acts number one hundred and eight and one hundred and nine, session laws of eighteen hundred and ninety-five, known as yellows commissioners, shall be uncertain as to the existence or nature of any infectious or contagious disease or dangerous insect pest in an orchard or elsewhere, or in case any dispute shall arise between owners and commissioners, it shall be the duty of said commissioners to notify the state inspector of orchards and nurseries, who shall at once investigate or inquire into the matter and suggest or recommend the proper remedies, and give all the information he can to aid in exterminating such insects or diseases, and his decision of the case and recommendation shall be final.

To recommend proper remedies, decision to be final.

The two acts above referred to are the first two acts of this compilation.

(5704) SEC. 9. It shall be the duty of the state inspector, whenever it shall come to his knowledge that any destructive insects or infectious or contagious diseases exist in any orchard in this state, or are supposed to exist, to investigate the case, and if such dangerous insects or diseases are found, he shall have authority to enter upon the premises and proceed according to the provisions of sections one, two and three of this act, in exterminating the same. In case the owner or occupant of the premises shall refuse or neglect to comply with the orders of said inspector within five days, the inspector shall employ such aid as may be necessary to carry out his orders and recommendations, the expense of which procedure shall be certified to the township board and by them allowed, who shall cause the same to be assessed as a special tax upon the premises concerned.

When may enter premises and inspect orchards.

In case owner refuse, how to proceed.

(5705) SEC. 10. The state inspector of orchards and nurseries shall have power to appoint such number of deputy inspectors as may be required, subject to approval by the state board of agriculture.

May appoint deputies.

(5706) SEC. 11. All expenses incurred under the provisions of this act, not otherwise provided for, shall be audited by the state board of agriculture, and paid out of the general fund of the state, and the auditor general shall draw his warrant for the same: Provided, That all moneys collected by the state board of agriculture, under this act, shall be paid into the general fund of the state treasury.

Expenses how audited and paid.

Proviso as to moneys collected.

An Act TO PROTECT VINEYARDS, ORCHARDS AND GARDENS, and to repeal act number one hundred thirty-one, public acts of eighteen hundred sixty-nine, entitled "An act to protect vineyards in the State of Michigan," being section nine thousand one hundred and ninety-five of Howell's Annotated Statutes.

[Act 79, P. A. 1895.]

The People of the State of Michigan enact:

(11645) SECTION 1. That any person who shall enter a vineyard, orchard or garden, without the consent of the owner, and pick, take, carry away, destroy or injure any of the fruits, vegetables or crops therein, or in anywise injure or destroy any bush, tree, vine or plant, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail not more than three months, or by fine not less than one nor more than one hundred dollars, or by both such fine and imprisonment, in the discretion of the court.

Penalty for entering vineyard, orchard or or garden.

Am. P. A. 1899, Act 61, p. 97.
How. 9175, Sec. 2 repeals Act 131 of 1869.

An Act to prevent the wilful and malicious DESTRUCTION OF FRUIT, SHADE OR ORNAMENTAL TREES.

[Act 52, S. L. 1853.]

The People of the State of Michigan enact:

Wilful and malicious injury to fruit or shade trees, how punished.

(11646) SECTION 1. That every person who shall willfully and maliciously, or wantonly and without cause, cut down or destroy or otherwise injure any fruit tree or trees, or any other tree or trees, not his own, standing or growing for shade or ornament on the land of another, the damage for which said cutting down, destruction or injury to the owner or owners of said tree or trees shall amount to the sum of twenty-five dollars, shall be punished by imprisonment in the state prison not exceeding five years, or by imprisonment in the county jail not exceeding one year, or by fine not exceeding five hundred dollars, in the discretion of the court.

How. 9193.

An Act to prevent the wrongful taking, detaching from the ground, or INJURING ANY FRUIT TREE, SHADE TREE, ORNAMENTAL SHRUB, PLANT, VINE, OR VEGETABLE.

[Act 174, S. L. 1855.]

The People of the State of Michigan enact:

Wrongful taking of fruit trees, etc., how punished.

(11647) SECTION 1. That any person who shall wrongfully take and carry away from any place, any fruit tree, ornamental tree, shade tree, ornamental shrub, or any plant, vine, bush, or vegetable there growing, standing, or being, with intent to deprive the owner thereof, or who shall without right and with wrongful intent, detach from the ground, or injure any fruit tree, ornamental tree, shade tree, ornamental shrub, or any plant, vine, bush, or vegetable, shall be guilty of a misdemeanor, and on conviction thereof be punished by imprisonment in the county jail not more than six months, or by fine not exceeding two hundred and fifty dollars, or by both such fine and imprisonment, in the discretion of the court: Provided, That when the damage to the owner does not exceed the sum of twenty-five dollars, the punishment shall be a fine not exceeding one hundred dollars, or imprisonment in the said jail not exceeding three months, or by both such fine and imprisonment, in the discretion of the court.

Proviso.

How. 9194, Am. 1875, Act 202.

An Act to prevent TRESPASS UPON CRANBERRY MARSHES.

[Act 38, S. L. 1869.]

The People of the State of Michigan enact:

(11643) SECTION 1. That if any person shall enter the premises of any other person, and take and carry away cranberries or cranberry vines there growing, shall trample or otherwise injure or destroy the cranberry vines growing thereon, without the permission of the owner or occupant of said premises, such person shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment in the county jail not less than five days, or by fine not less than five dollars, and costs of prosecution, or both such fine and imprisonment, in the discretion of the court; and if any of the offenses mentioned in this section shall be committed on the first day of the week, or in disguise, or secretly in the nighttime, between sunsetting and sun-rising, on conviction thereof the punishment shall not be less than twenty dollars fine, or imprisonment in the county jail not less than ten days, or both, at discretion of the court. Penalties for trespass. Further penalties.

How. 2223.

(11644) SEC. 2. Any person who shall commit any of the acts of trespass in section one of this act, shall be liable in treble damages, in an action of trespass to be brought in the name of the owner or occupant of the land upon which said trespass may have been committed. Treble damages.

How. 2224.

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